



DEPARTMENT OF
FINANCE

ARNOLD SCHWARZENEGGER, GOVERNOR

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June 25, 2008

Mr. Stephen H. Nash, Director
Financial Division
Judicial Council of California
455 Golden Gate Avenue
San Francisco, CA 94102-3688

Dear Mr. Nash:

Final Interim Audit Report—Judicial Council of California, Administrative Office of the Courts, Peer Court DUI Prevention Strategies Program Grant Agreement AL0663

Enclosed is the final interim audit report on the Judicial Council of California Administrative Office of the Courts' Peer Court DUI Prevention Strategies Program Grant Agreement AL0663 for the interim period October 1, 2005 through September 30, 2007. The audit was performed under an interagency agreement between the Department of Finance, Office of State Audits and Evaluations, and the Office of Traffic Safety. Our audit included a review of grant revenue and expenditures, internal control, and compliance with grant contract provisions.

Except as noted in the *Findings and Recommendations* section of this report, the City has complied with the fiscal requirements of the grant, and its revenue and expenditures were fairly stated. The findings pertain to instances of non-compliance. The City's response, and our evaluations, are included in this final report.

We appreciate the Judicial Council's assistance and cooperation with this audit. If you have any questions regarding this report, please contact Kimberly A. Tarvin, Manager, or John Rogers, Supervisor, at (916) 322-2985.

Sincerely,

David Botelho, Chief
Office of State Audits and Evaluations

Enclosure

cc: Mr. William H. Terrell, Assistant Director of Administration, Office of Traffic Safety
Ms. Pat Haggerty, Assistant Director, Accounting and Business Services, Judicial Council
of California

INTERIM GRANT AUDIT

Judicial Council of California,
Administrative Office of the Courts
Peer Court DUI Prevention Strategies Program
Grant Agreement AL0663

For the Interim Period October 1, 2005
through September 30, 2007

Prepared By:
Office of State Audits and Evaluations
Department of Finance

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The Department of Finance, Office of State Audits and Evaluations, performed this interim grant audit under an interagency agreement with the Office of Traffic Safety (OTS). The purpose of the audit was to determine whether the Judicial Council of California, Administrative Office of Courts, (Judicial Council) complied with OTS grant agreement AL0663.

The audit objectives were as follows:

- To determine whether the Judicial Council expended federal funds in accordance with the terms of the grant agreement and those provisions of law or regulations that could have a material effect on the financial statements or the grant.
- To determine whether the Judicial Council's internal control allows for the accurate and timely development of accounting data needed to produce the *Statement of Revenue and Expenditures*.
- To verify the Judicial Council's compliance with applicable laws, regulations, and contract requirements.
- To provide, as necessary, recommendations regarding the eligibility of funding and improving internal control.

This report is intended for the information and use of Judicial Council and OTS management and is not intended to be and should not be used by anyone other than the specified parties. However, this restriction is not intended to limit the distribution of this report, which is a matter of public record.

STAFF:

Kimberly A. Tarvin, CPA
Manager

John R. Rogers, CPA
Supervisor

Michael Bratman
Nasira Quettawala
Auditors



INDEPENDENT AUDITOR'S REPORT

Mr. Stephen H. Nash, Director
Financial Division
Judicial Council of California
455 Golden Gate Avenue
San Francisco, CA 94102-3688

We have audited the accompanying *Statement of Revenue and Expenditures* (Statement) of the Judicial Council of California, Administrative Office of Courts (Judicial Council), grant agreement AL0663 for the interim period October 1, 2005 through September 30, 2007. The Statement was prepared from the Judicial Council's records and is the responsibility of the Judicial Council's management. Our responsibility is to express an opinion on the Statement based on our audit.

We conducted our audit in accordance with *Generally Accepted Government Auditing Standards* (GAGAS), issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to provide reasonable assurance as to whether the Statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the Statement. An audit also includes assessing the accounting principles used and significant estimates made by management. We believe that our audit provides a reasonable basis for our opinion.

The accompanying Statement was prepared, as described in Note 3, for the purpose of determining the Judicial Council's fiscal compliance with the requirements of grant agreement AL0663. The Statement is not intended to be a presentation of the Judicial Council's total revenue and expenditures.

In our opinion, the Statement referred to above presents fairly, in all material respects, the claimed and audited revenue and expenditures for grant agreement AL0663 for the period October 1, 2005 through September 30, 2007 in conformity with accounting principles generally accepted in the United States of America

Compliance

As part of obtaining reasonable assurance about whether the Statement is free of material misstatement, we performed tests of the Judicial Council's compliance with certain provisions of laws, regulations, contracts, and grants, noncompliance with which could have a direct and material effect on the determination of Statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed an instance of noncompliance, as

described in the *Finding and Recommendation* section of this report, that is required to be reported under GAGAS.

Internal Control over Financial Reporting

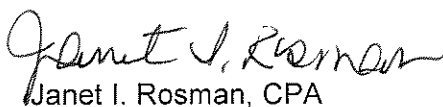
In planning and performing our audit, we considered the Judicial Council's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the Statement, but not for the purpose of expressing an opinion on the effectiveness of the Judicial Council's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Judicial Council's internal control over financial reporting.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or a combination of control deficiencies, that adversely affects the Judicial Council's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the Statement that is more than inconsequential will not be prevented or detected by the Judicial Council's internal control.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the Statement will not be prevented or detected by the Judicial Council's internal control.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

This report is intended solely for the information and use of the Office of Traffic Safety and the Judicial Council management, and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.



Janet I. Rosman, CPA
Assistant Chief, Office of State Audits and Evaluations

April 14, 2008

STATEMENT OF REVENUE AND EXPENDITURES

Judicial Council of California,
Administrative Office of the Courts
Peer Court DUI Prevention Strategies Program
Grant Agreement AL0663

For the Interim Period October 1, 2005 through September 30, 2007

<u>Description</u>	<u>Claimed as of September 30, 2007</u>	<u>Audited</u>	<u>Questioned</u>
Revenue:			
State Grant	\$599,354	\$599,354	\$ 0
Expenditures:			
Personnel	264,285	264,285	0
Travel	20,664	20,664	0
Contractual Services	217,610	217,610	0
Other Direct Costs	57,152	57,152	0
Indirect Costs	<u>39,643</u>	<u>20,275</u>	<u>19,368</u>
Total Expenditures	<u>599,354</u>	<u>579,986</u>	<u>19,368</u>
Excess of Revenue over Expenditures	<u>\$ 0</u>	<u>\$ 19,368</u>	<u>\$ 19,368</u>

The accompanying notes are an integral part of this statement.

NOTES TO THE STATEMENT OF REVENUE AND EXPENDITURES

**Judicial Council of California
Administrative Office of the Courts
Peer Court DUI Prevention Strategies Program
Grant Agreement AL0663
For the Interim Period October 1, 2005 through September 30, 2007**

NOTE 1 Definition of the Reporting Entity

Chaired by the Chief Justice, the Judicial Council of California (Judicial Council) is responsible for improving the administration of justice in California. Established in 1926 by article VI, Section 6 of the state Constitution, the Judicial Council provides guidelines to the courts; make recommendations annually to the Governor and Legislature; and adopts and revises California Rules of Court in the areas of court administration, practice, and procedure.

The Judicial Council sets the direction and provides the leadership for improving the quality and advancing the consistent, independent, impartial, and accessible administration of justice. It performs its constitutional and other functions with the support of its staff agency, the Administrative Office of the Courts, under the leadership of the Administrative Director of the Courts. The Administrative Office of the Courts is responsible for this grant project.

NOTE 2 Program Information

The Business, Transportation, and Housing Agency's Office of Traffic Safety (OTS) is charged with the responsibility of obtaining and distributing federal funds in an effort to carry out the direction of the National Highway Safety Act. The federal funds are designed to mitigate traffic safety problems as defined by the Highway Safety Plan. Currently, there are eight program priority areas earmarked for grant funding: Alcohol and Other Drugs, Occupant Protection, Pedestrian and Bicycle Safety, Emergency Medical Services, Traffic Records, Roadway Safety, Motorcycle Safety, and Police Traffic Services.

NOTE 3 Significant Accounting Policies

A. Basis of Presentation

The *Statement of Revenue and Expenditures* (Statement) was prepared from the Judicial Council's accounts and financial transactions. The Statement summarizes the Judicial Council's revenue and expenditures pertaining to grant agreement AL0663 for the interim period October 1, 2005 through September 30, 2007. This statement is not intended to represent all of the Judicial Council's revenue and expenditures.

B. Basis of Accounting

The Judicial Council's accounts are maintained on the modified accrual basis and in accordance with the principles of fund accounting. Under the modified accrual basis, revenue is recorded when it becomes measurable and available, and expenditures are recorded at the time the liabilities are incurred.

NOTE 4 Description of Grant Agreement AL0663

The OTC awarded a \$1.5 million grant for the period October 1, 2005 through September 30, 2008 to fund the Peer Court DUI Prevention Strategies Program (Program). The Goal of the Program is to educate adolescents of the dangers of drinking and DUI offenses and engender long lasting changed in their attitudes and behaviors. The Judicial Council will partner with California's peer court system to develop and implement the program. To achieve this goal, the Judicial Council will award mini grants to existing peer courts to provide input on the development of a statewide DUI prevention and intervention curriculum aimed at educating juveniles about the dangers of drinking and driving under the influence. The Judicial Council will hire an educational development consultant to develop the statewide curriculum and a graphic web designer to create the companion website. Lastly, a professional evaluation consultant will be hired to evaluate and test the curriculum.

FINDING AND RECOMMENDATION

During the audit of the Judicial Council of California (Judicial Council) grant agreement AL0663, the following instance of noncompliance with the Office of Traffic Safety (OTS) grant agreement requirements was identified.

FINDING **Indirect Costs Not Supported by an Approved Cost Allocation Plan**

Condition: Ineligible indirect costs of \$19,368 were claimed because the Judicial Council used 15 percent of personnel costs allowed in the grant budget to calculate the indirect costs without an approved indirect cost allocation plan (CAP). Without an approved CAP from the federal cognizant agency, the reimbursement of indirect costs is limited to 10 percent of salaries.

Criteria: The OTS grant agreement AL0663 allows the grantee to claim 15 percent of the personnel costs as indirect costs. However, the grant terms and conditions state that any grant received is subject to all federal and state regulations governing grants and the Grant Program Manual. The Grant Program Manual Chapter 2, Section 2.1 states that costs must be in compliance with the Office of Management and Budget (OMB) Circular A-87.

OMB Circular A-87 states that a standard cost allowance equal to ten percent of the direct salary and wage cost of providing the service (excluding overtime, shift premiums, and fringe benefits) may be used in lieu of determining the actual indirect costs of the service and describes the required certifications for a cost allocation plan to be acceptable to support actual costs when actual costs are claimed.

Recommendation: To claim the maximum indirect costs available in the grant budget, obtain an approved CAP that supports the actual indirect costs incurred in the implementation of the grant activities. Until the CAP is finalized and approved by the federal cognizant agency, use the provisional ten percent rate to calculate the allowable indirect costs.



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

FINANCE DIVISION

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RONALD M. GEORGE
Chief Justice of California
Chair of the Judicial Council

WILLIAM C. VICKREY
Administrative Director of the Courts

RONALD G. OVERHOLT
Chief Deputy Director

STEPHEN NASH
Director, Finance Division

June 10, 2008

Janet I. Rosman, Assistant Chief
Department of Finance
Office of State Audit and Evaluations
300 Capitol Mall, Suite 801
Sacramento, CA 95814

Re: Response to Draft Interim Audit Report –Peer Court DUI Prevention Strategies Program
Grant Agreement AL0663, dated May 6, 2008

Dear Ms. Rosman:

I am writing to confirm receipt of the draft interim audit report issued by your office dated May 6, 2008 regarding the Judicial Council Peer Court DUI Prevention Strategies Program Grant Agreement AL0663. This letter also serves to respond to one of the preliminary audit findings.

On page 6 of your letter, there is a reference to ineligible indirect costs in the amount of \$19,368 that were claimed due to the Judicial Council's use of the 15 percent indirect cost calculation in the absence of an approved indirect cost allocation plan. We respectfully disagree with the interpretation for two specific reasons:

1. The indirect costs identified in interim audit report refer to the costs for the period of October 1, 2005 through September 30, 2007. The Administrative Office of the Courts adhered to the grant contract requirements specific to that period, which stated "Allowable indirect costs, as defined in the circular, shall be reimbursed at a predetermined fixed rate using the following guidelines: up to 15 %..." (Section 2.6.2). There is no reference to the requirement of having an approved indirect cost rate on file.

- (1) Documents, budgets and agreements received from the grantor relating to this specific grant continue to document the acceptability of the 15 percent rate that was applied.

The current contract is worded differently than the previous contract and now states "Allowable indirect costs, as defined in this circular, shall be reimbursed at a predetermined fixed rate to agencies that have an approved Indirect Cost Rate Proposal on file using the following guidelines: up to 15%...." (Section 2.6.1) Based on the current grant wording, we would agree with your finding. That being said, the purpose of the audit was to review the grant that was in place from October 2005 through September 2007. With respect to this requirement, a process is in place to establish an approved Indirect Cost Rate Proposal for FY 2008-09. We anticipate this rate to be in effect for the entire fiscal year.

In summary, we feel that the 15 percent indirect cost rate was appropriately applied for the grant period in question and, therefore, request that the finding be further reviewed prior to release of the final audit report.

I appreciate your consideration of this response. If you have any questions, please do not hesitate to contact me at 415-865-7584.

Sincerely,



Stephen Nash
Director, Finance Division

SN/LH

cc: Pat Haggerty, Assistant Director, Office of Accounting and Business Services, AOC
Finance Division
Ralph Baird, Manager, Office of Accounting Services, AOC Finance Division
Paul Fontaine, Supervisor, Grant Accounting Unit, AOC Finance Division

EVALUATION OF RESPONSE

The Department of Finance, Office of State Audits and Evaluations (Finance), reviewed the response from the Judicial Council of California Administrative Office of the Courts (Judicial Council).

The Judicial Council asserts that the Office of Traffic Safety (OTS) grant agreement AL0663 allows it to claim the 15 percent indirect cost rate. In addition, the Judicial Council believes that the OTS grant agreement is silent as to requiring an approved indirect costs rate on file.

Finance agrees that the OTS grant agreement allows recovery of 15 percent of personnel costs. However, the grant terms and conditions state that any grant received is subject to all federal and state regulations governing grants and the Grant Program Manual.

The Code of Federal Regulations, Title 49, Part 18, requires the adoption of the Office of Management and Budget (OMB) Circular A-87 for determining allowable grant costs, including indirect costs. The OMB Circular A-87, Section 225.55, Part F and G require an approved indirect cost plan to claim indirect costs on federal grants. As an alternative to determining the actual indirect costs of the service, the OMB Circular A-87 allows a standard indirect cost allowance equal to ten percent of the direct salary and wage cost of providing the service (excluding overtime, shift premiums and fringe benefits). Since the Judicial Council did not have an approved cost allocation plan, only 10 percent of the personnel costs were considered allowable.

Based on the above, the finding will remain as stated in the draft report.

DOF Audit Details and Review

GRANT #	AUDIT #	AGENCY	YEAR AUDIT CONDUCTED	AUDIT STATUS	DATE FINAL REPORT	DATE CLOSEOUT LETTER MAILED	AUDIT RESOLUTION DATE
AL0663	1	Judicial Council of	2007	Audit Closed	6/25/2008		8/5/2008

ITEM #	DATE	FINDINGS	RESPONSE	FINDINGS RESOLUTION DATE
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1	6/25/2008	FINDING 1 - INDIRECT COSTS NOT SUPPORTED BY AN APPROVED COST ALLOCATION PLAN	Grantee asserts the the grant allows them to claim 15% for indirect cost and is silent as to requiring an approved indirect cost rate on file.	
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2	6/25/2008	EVALUATION OF RESPONSE	DOF's evaluation of the response stated that the grantee must adhere to all federal and state regulations governing grants. As an alternative to determining actual indirect costs of the service, the OMB A-87 allows a standard indirect cost allowance equal to 10% of direct salary and wage cost of providing the service. Because the grantee did not have an approved cost allocation plan, only 10% of the personnel costs are considered allowable. The finding will remain as stated in the report.	
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3	6/25/2008	CONCLUSION	Reduced claim 10 by \$12,777.66 (dfh)8/5/08	
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